

August 19, 2004

JAMES HEAVEY
17429 SE 238TH
KENT WA 98042

Subject: Complaint Filed Against Steve Hammond, PDC Case No. 04-441

Dear Mr. Heavey:

The Public Disclosure Commission staff has completed its investigation of your complaint, received March 2, 2004, alleging that the Steve Hammond campaign sponsored political advertising that contained false statements of material fact about Barbara Heavey, a King County Council candidate in the 2003 election, in violation of RCW 42.17.530.

The PDC staff reviewed your allegations in light of the following statute:

RCW 42.17.530 prohibits a person from sponsoring with actual malice political advertising that contains a false statement of material fact about a candidate for public office. "Actual malice" means to act with knowledge of falsity or with reckless disregard as to truth or falsity. Any violation must be proven by clear and convincing evidence.

You alleged that the Steve Hammond campaign sponsored political advertising that falsely stated that 75 percent of Barbara Heavey's contributions have come from "Seattle liberal interests." You stated that there is no evidence that 75 percent of Ms. Heavey's contributions can be attributed to "Seattle liberal interests" because only 23.7 percent of the total dollars contributed and 42.7 percent of the total individuals contributing were from zip codes located within Seattle.

We found that:

- The Hammond campaign sponsored political advertising that made the following statement about Mr. Hammond's opponent, Barbara Heavey: "75 percent of her contributions have come from Seattle liberal interests."
- You failed to provide evidence that the statement, "75 percent of Ms. Heavey's contributions have come from Seattle liberal interests" was false. You alleged that fewer than 75 percent of Ms. Heavey's contributors had Seattle zip codes,

and that fewer than 75 percent of the dollars raised came from contributors with zip codes located within Seattle. You did not account for the fact that contributors with addresses outside of Seattle can have interests in Seattle, and have provided no evidence that Mr. Hammond's statement was false.

In addition, you alleged that the advertisement contained a second false statement when it stated that Ms. Heavey was a top manager at a King County agency when a 2000 employee survey found that 79% believed employee morale was bad and 59% believed that agency leadership lacked a clear vision. You stated that Ms. Heavey's job responsibilities did not include supervision of any employees or any "leadership" of the department.

We found that:

- The Hammond campaign sponsored political advertising that made the following statement about Barbara Heavey: "She was a top manager at a King County agency when a 2000 employee survey found that 79% believed employee morale was bad and 59% believed that agency leadership lacked a clear vision."
- The Barbara Heavey campaign website described Ms. Heavey as "an experienced prosecutor and manager." In an article posted on Ms. Heavey's campaign website, she is described as "a Senior Project Manager for King County." The Seattle P-I LWV Voter's Guide: Candidate Detail described Ms. Heavey's current job as a "Project manager for King County."
- In 2000, Barbara Heavey was employed as a Planner III for King County Department of Development and Environmental Services (DDES). Her position has since been renamed Program Project Manager III. In her position, Ms. Heavey was responsible for managing projects.
- In 2000, Public Employees for Environmental Responsibility (PEER) conducted a survey of King County DDES employees. Fifty-nine percent of the respondents indicated disagreement or strong disagreement with the statement: "I feel that DDES leadership has a clear vision for the agency." Seventy-nine percent of the respondents indicated disagreement or strong disagreement with the statement: "Employee morale at DDES is good."
- Mr. Hammond's advertisement did not state that Ms. Heavey was a supervisor of employees or that her employment position was responsible for the items referred to in the PEER survey. Thus, there is not evidence that the Hammond campaign's advertisement contained a false statement.

After a careful review of the alleged violations and relevant facts, we have concluded our investigation and, with the concurrence of the Chair of the Public Disclosure Commission, I am dismissing your complaint against Steve Hammond.

If you have questions, please contact Phil Stutzman, Director of Compliance, at (360) 664-8853 or toll free at 1-877-601-2828.

Sincerely,

Vicki Rippie
Executive Director

c: James Heavey